

6. None of the parties has previously dismissed an action based on or including the same claims as those presented in this suit.

7. This dismissal is with prejudice.

8. Each party agrees to bear its own attorneys' fees and costs.

Respectfully submitted,

s/ Caldwell Fletcher

/s/ Joseph A. Ziemianski

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CERTIFICATE OF SERVICE

I certify that a true copy of this document was served upon all counsel of record pursuant to the Federal Rules of Civil Procedure via certified mail, return receipt requested or the Court's electronic filing system on January ³¹, 2013.

s/ Caldwell Fletcher

Caldwell Fletcher